



THE TEXAS HOUSE OF REPRESENTATIVES
COMMITTEE ON URBAN AFFAIRS

FRED HILL
CHAIRMAN

February 25, 1998

FILE # ML-40110-8
I.D. # 40110

RECEIVED
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Opinion Committee

The Honorable Dan Morales
Texas Attorney General
P.O. Box 12548
Austin, TX 78711-2548

RQ-1102

Re: Whether Section 351.101(b), Tax Code
prohibits cities from using the interest
on hotel occupancy taxes for general
revenue purposes.

Dear Dan,

I am writing to request an Attorney General's Opinion on Section 351.101(b), Tax Code. The section states:

"(b) Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality."

It has come to my attention that some Texas cities that collect the hotel occupancy tax do not spend it all, but retain portions of it in a reserve account. Interest from the reserve account is not fed back into the reserve account, but is allocated to the general fund to be used for other purposes.

My question is whether spending the interest from the hotel occupancy tax for general revenue purposes or general governmental operations of a municipality is an illegal use of the tax. If legal, it would appear that this would encourage cities to accumulate a reserve from which interest income could be derived on a regular basis.

I would appreciate your addressing this issue of law in an Attorney General's Opinion, and I look forward to hearing from you on the matter.

Sincerely,

Fred Hill

FH/dmo